

IN THE UNITED STATES DISTRICT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:08CR710 HEA
)	4:08CR114 HEA
MILTON H. OHLSEN, III,)	
)	
Defendant.)	

DEFENDANT'S OBJECTIONS REGARDING
PRESENTENCE INVESTIGATION REPORT

Comes now Defendant Milton H. Ohlsen, III, by and through counsel Paul J. D'Agrosa and hereby files the following objections to the presentence investigation report.

THE OFFENSE CONDUCT (Docket No. 4:08CR 710 HEA)

13. and 14. The defendant objects to any reference to possession of the firearm in connection to a controlled substance offense. The controlled substances were in fact prescription drugs, in Defendant's possession lawfully, and any reference should be stricken from the report.

15. The defendant objects to the accusation that a "silencer" was found in a bag belonging to Defendant. There was no silencer.

THE OFFENSE CONDUCT (Docket No. 4:08CR114 HEA)

22. The defendant objects to the accusation that he made material false statements to the U.S. Bankruptcy Court in the Eastern District of Missouri.

23. The defendant objects to the conclusion that the value of the property, for purposes of calculating the amount of loss, should be determined by the St. Louis County

Assessor's office, who has assessed the value at only \$377,300. Defendant submits that the fair market value of the property, for purposes of calculating loss, should be determined by the real estate market. For example, the fair market value could be calculated by examining comparable properties sold in the area of Defendant's home.

OFFENSE LEVEL COMPUTATION (4:08CR710 HEA)

33. Specific Offense Characteristics

34. The defendant objects to the finding that two (2) levels should be added to his base offense level, pursuant to Section 2K2.1(b)(4)(A), as even though the firearm in Defendant's possession had been reported as stolen, the owner of the firearm has since indicated by way of affidavit that he mistakenly reported the gun stolen. Defendant had no knowledge that the gun had been reported stolen. The gun was in a briefcase, along with other property belonging to the gun owner. The owner lost track of the weapon and reported it stolen, in error, when the gun was in a briefcase along with other items, in Defendant's possession. Defendant and the gun owner were involved in business together and Defendant ended up with the briefcase, after the business wound down.

DEFENDANT THEREFORE MAINTAINS THAT THE ADJUSTED OFFENSE LEVEL IS 16, NOT 18.

40. Specific Offense Characteristics (4:08CR114HEA)

Defendant objects to the addition of twelve (12) levels, representing a loss of more than \$200,000. Defendant submits that the fair market value of his home, based upon actual real estate market estimates, is \$508,300. The Gross amount of the loans (\$668,000) less the fair market value of the home (\$508,300), which was the collateral pledged, equals the estimated loss amount of \$159,7000. Defendant submits that pursuant to Section **2B1.1(b)(1)(F)**, ten (10) levels should be added to the base offense level.

41. Defendant objects to the addition of two(2) points based upon the conclusion that Defendant made false representations during a bankruptcy proceeding as to his income and the value of his home.

DEFENDANT THEREFORE SUBMITS THAT THE ADJUSTED OFFENSE LEVEL IS 17.

Defendant's objections, if sustained by the Court, will result in the following guidelines calculation:

Multiple Count Adjustments (Section 3D1.4)

46.	Count One under 4:08CR710 HEA		<u>Units</u>
	Adjusted Offense Level:	16	1
47.	Count One under 4:09CR114 HEA	17	1
48.	Total Number of Units:		2
49.	Greatest of the Adjusted Offense Levels:	17	
50.	Increase in Offense Level (Section 3D1.4):	+2	
51.	Combined Adjusted Offense Level:		<u>19</u>
52.	Adjustment for Acceptance of Responsibility:		<u>-3</u>
53.	Total Offense Level:		<u>16</u>

PART D. SENTENCING OPTIONS

106. Defendant objects to the total offense level of 20 and therefore, submits that Based upon a total offense level of 16 and a criminal history category of I, the guideline imprisonment range is from 21 to 27 months.

WHEREFORE, the defendant herewith files his objections to the presentence report. Consistent with the stipulation and plea agreement, these objections were anticipated. The objections, should they be sustained, will have an effect on the ultimate

sentence Defendant receives. Evidence will need to be adduced in order to resolve said objections. Defendant therefore requests this Court sustain his objections and sentence Defendant accordingly.

Respectfully submitted,

LAW OFFICES OF
WOLFF & D'AGROSA

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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of September, 2009 the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following: Mr. Michael Reap, Acting U.S. Attorney.

/s/ Paul J. D'Agrosa
Paul J. D'Agrosa (#20852)